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OFFICE OF PETITIONS

In re Application of	:	
Tomasz Janczak	:	
Application No. 09/991,281	:	ON PETITION
Filed: November 15, 2001	:	
Attorney Docket No. 42390P12526	:	

This is a decision on the petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 U.S.C § 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted.
2. the surcharge set forth in 1.17(t), and
3. a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant pending application was filed on November 15, 2001, and was pending at the time of the filing of the instant petition. A reference to the prior-filed provisional application has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(5)(i).

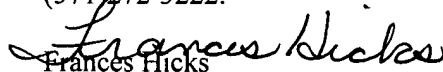
The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected filing receipt, which includes the priority claim to the prior-filed provisional application, accompanied this decision on petition.

This matter is being referred to Technology Center 2600, Art Unit 2666, for appropriate action on the amendment filed October 24, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.


Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt